

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AUTHORS GUILD, DAVID BALDACCI,  
MARY BLY, MICHAEL CONNELLY, SYLVIA  
DAY, JONATHAN FRANZEN, JOHN  
GRISHAM, ELIN HILDERBRAND,  
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GEORGE R.R. MARTIN, JODI PICOULT,  
DOUGLAS PRESTON, ROXANA ROBINSON,  
GEORGE SAUNDERS, SCOTT TUROW, and  
RACHEL VAIL, individually and on behalf of  
others similarly situated,

Plaintiffs,

v.

OPENAI INC., OPENAI LP, OPENAI LLC,  
OPENAI GP LLC, OPENAI OPCO LLC,  
OPENAI GLOBAL LLC, OAI CORPORATION  
LLC, OPENAI HOLDINGS LLC, OPENAI  
STARTUP FUND I LP, OPENAI STARTUP  
FUND GP I LLC, and OPENAI STARTUP  
FUND MANAGEMENT LLC,

Defendants.

No. 1:23-cv-8292-SHS

**SUPPLEMENT TO RULE 26(f) REPORT  
AND PROPOSED CASE MANAGEMENT  
PLAN**

The parties respectfully submit this brief supplement to the Rule 26(f) conference and proposed case management plan, filed November 22, 2023 (Dkt. No. 31).

**XII. PLAINTIFFS' SUPPLEMENT**

44. On November 28, 2023, Plaintiffs, in the interests of transparency, informed Defendants of their intent to amend the complaint on or before December 4, 2023, under Federal Rule of Civil Procedure 15(a)(1) to add Microsoft Corporation (“Microsoft”) in light of recent developments—including those over the last week—in connection with Microsoft’s role in and relationship to OpenAI. Plaintiffs also offered, in the interests of efficiency, and as part of the

amendment, to meet and confer with OpenAI in connection with OpenAI's previous invitation to discuss the status of certain of the Defendant entities.

45. Plaintiffs submit that the prospective pre-Answer amendment, engendered by recent events, need not alter the existing proposed schedule set forth in ¶¶ 27–28 of Dkt. No. 31, given, among other things, that the parties anticipated the possibility of the joinder of additional parties on or before February 9, 2024.

### **XIII. DEFENDANTS' SUPPLEMENT**

46. In light of Plaintiffs' expressed intent to file an amended complaint, Defendants intend to review any amended complaint in advance of filing their anticipated motion to dismiss under the first-filed rule, or, in the alternative, to stay this action pending resolution of the three substantially similar putative class actions pending in the District Court for the Northern District of California, or, in the further alternative, to transfer this matter to the Northern District of California either under the first-filed rule or 28 U.S.C. § 1404(a).

47. Defendants' proposed schedule set forth in Dkt. No. 31 relates to the case as framed by the currently operative complaint, and Defendants believe that any amendment may give rise to revised scheduling proposals, including proposals from parties who may be added to the case by amendment.

Dated: November 28, 2023

Respectfully submitted,

/s/ Rachel Geman

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Dated: November 28, 2023

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